

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 646 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KETAN RAJANIKANT SHAH

Versus

RAUF M MOOSANI

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Appearance:

MR BM GUPTA for Petitioner  
MR BHARAT B KANSARA for Respondent No. 1  
Mr.M.A.Patel, Ld.Addl.PUBLIC PROSECUTOR  
for Respondent No.2 to 6

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CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 08/09/98

ORAL JUDGEMENT

1. Rule. Mr.B.B.Kansara for respondent No.1 and Mr.M.A.Patel, Ld.APP for respondent Nos 2 to 6 appear and waive service of rule on behalf of respective respondents. By consent of Ld.advocates appearing

parties matter is finally heard.

2. The petitioner has come with a grievance against the respondent Nos 2 to 6 contending that the respondent No.1 has committed serious offence of blackmailing, cheating and forgery and thereby the petitioner sent a detailed telegram dated 12.6.98 to respondent Nos 2 to 5, but the respondent Nos 2 to 5 have failed to take any action. Further more, the petitioner has forwarded to respondent Nos 2 to 5 a written complaint dated 15.6.98 which disclosed a cognizable offence. It is the grievance of the petitioner that instead of taking cognizance of the offence, the respondents have summoned the petitioner, and hence, the petitioner has prayed for appropriate direction to respondent Nos 2 to 5 to lodge an FIR for the said allegations contained in the telegram, dated 12.6.98 as well as complaint dated 15.6.98.

3. It may be noted that on earlier occasion at the suggestion of the court the present petitioner filed a private complaint in the Court No.15 of Ld.Metropolitan Magistrate, Ahmedabad. However, instead of recording the statement of the petitioner as a complainant, it is the grievance of the petitioner that the Ld.Metropolitan Magistrate directed the police to investigate the matter under section 202 Cr.P.C., 1973. The petitioner has amended para 9-A, B and C of the petition and incorporated the said facts and has also added para 12C to make further prayer according to which the petitioner has prayed that the complaint lodged in the Court No.15, Ld.Metropolitan Magistrate, Ahmedabad may be sent to concerned police station for investigation under section 156(3) of Cr.P.C. in the proceedings of Enquiry Case No.19/98 by the Court No.15, Ld.Metropolitan Magistrate, Ahmedabad.

4. That the respondent No.1 has appeared in response to notice issued by this court vide earlier order and has filed affidavit-in-reply which is taken on record vide pages 35-38. REspondent No.5-P.I--F.A.Gohil filed affidavit-in-reply which is taken on record vide page 39 onwards. Ld.APP Mr.Patel has submitted on behalf of respondent Nos 2 to 6 that the respondent Nos 5 and 3 are ready and willing to record and investigate the complaint of the petitioner. However, after sending the telegram and the written complaint the petitioner was not traceable at the address given. That at the residential address summons has been sent but the petitioner has failed to appear and as such proceedings have remained pending. In the overall facts and circumstances, in

order to resolve the dispute, it would be just and proper to direct the respondent No.2 as well as the petitioner to take appropriate course in the disputed matter.

5. The respondent No.2 is directed to register the written complaint sent by the present petitioner by post as an FIR and to investigate the same. The petitioner is directed to remain present at Karanj PS as and when called for the purpose of investigation. Respondent Nos 3 & 4 are directed to provide protection to the petitioner to his life and liberty, if claimed. The respondent No.2 shall complete the investigation within a period of six weeks hereof and submit appropriate report before the competent court within the said period.

6. In view of the abovestated direction, amended prayer made by the petitioner vide para 12(C) does not survive and stands rejected. Petition is partly allowed. Rule is made absolute accordingly.

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